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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/820,338

04/07/2004

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81486 7114

8133

37123 7590 04/29/2010  
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EXAMINER

DANIELS, ANTHONY J

ART UNIT

PAPER NUMBER

2622

MAIL DATE

DELIVERY MODE

04/29/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/820,338	<b>Applicant(s)</b> ENDLER ET AL.	
	<b>Examiner</b> ANTHONY J. DANIELS	<b>Art Unit</b> 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Response to Amendment***

1. The amendment, filed 1/27/2010, has been entered and made of record. Claims 1-28 are pending in the application.

***Response to Arguments***

1. Applicant's arguments regarding claims 1-28 and the cited art of record have been fully considered but they are not persuasive.

The examiner believes Applicant applies the same arguments for the different grounds of rejection in the previous Office Action (The 35 U.S.C. 103(a) rejection under (1) Franken in view of Zilliacus and further in view of Taniguchi, (2) under Franken in view of Zilliacus in view of Taniguchi and further in view of Peliotis and (3) under Franken in view of Zilliacus in view of Taniguchi in view of Peliotis and further in view of Lautzenheiser). In order to save redundancy, the examiner will respond to these arguments and they will apply to each grounds of rejection in the previous Office Action.

Applicant notes that Franken discloses a system that rates "rerun programming". To the extent the argument that Franken does not disclose real-time streaming video as required by the independent claims, the examiner submits that the rerun programming is that which is video recorded. Initially, Franken discloses providing live television programming which is video recorded according to a viewer's request (see Franken, Col. 2, Lines 43-45). Applicant further argues that the limitations recited in claim 1 on p. 11, last paragraph and p. 12, first paragraph are not taught by the cited art of record. The examiner respectfully disagrees and submits that the

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newly added features of the independent claims are taught in the cited art; specifically, Taniguchi. In particular, Applicant claims, "...each segment of the plurality of segments having a corresponding plurality of original in-and-out points..." The examiner submits that the original in-and-out points are taught in Taniguchi. In Figure 2 of Taniguchi, the leading end and terminal end of the partial video data are the original in-and-out points. Applicant further claims, "...creating profile information, in a record, associated with each segment of the plurality of segments of each at least one string of content, the record identifying a plurality of new in-and-out points within the plurality of original in-and-out points, thereby providing a plurality of in-and-out points within each segment..." The stored profile information has been delineated in the previous Office Action. As to the new in-and-out points, Taniguchi clearly discloses in Figure 2, a plurality of leading and terminal ends within the original in-and-out points segmenting the metadata associated with the content segment.

The examiner submits that the in-and-out points have been interpreted properly in light of the specification and also submits that Taniguchi clearly discloses Applicant's claimed original and new in-and-out points.

### ***Claim Rejections - 35 USC § 103***

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-6 and 8-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franken et al. (US # 7,028,323) in view of Zilliacus (US 2004/0005900) and further in view of Taniguchi (US 2003/0093810).

As to claim 1, Franken et al. teaches a method of displaying (Figure 1, TV "102") and rating content (Col. 3, Lines 47-50, "...these programs are ranked...") comprising: receiving at least one string of content having a plurality of segments (Col. 2, Lines 43-46), the content receiving step comprising streaming the content in real-time for viewing while being captured (Col. 2, Lines 43-46, "...provides live digital television service..."); creating profile information, in a record, associated with each segment of the content (Col. 3, Lines 5-7); showing the at least one string of content on a display device (Col. 3, Lines 39-42); and updating the profile information associated with each segment of the content to reflect viewer information (Col. 3, Lines 44-47; *{The ranking is part of the profile information.}*). The claim differs from Franken et al. in that it further requires separating each at least one string of content into a plurality of in-and-out points corresponding to each segment, wherein each segment has a plurality of original in-and-out points and wherein the record identifies a plurality of new in-and-out points within the plurality of original in-and-out points, thereby providing a plurality of in-and-out points within

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each segment. The claim also differs from Franken et al. in that it further requires that a vote, reflecting the quality of each segment of the content, is received on the content, thereby providing a rating value having a quantifiable significance to the in-and-out points and that the profile information is updated according to the vote.

In the same field of endeavor, Zilliacus teaches a video system wherein a plurality of users watching a television program can vote as to the quality of the programs. Voting results are then tabulated by the system (Figure 2; [0033] – [0036]). In light of the teaching of Zilliacus, it would have been obvious to one of ordinary skill in the art to employ the voting system in the system of Franken et al., because an artisan of ordinary skill in the art would recognize that this would provide a higher quality assessment of viewership. More specifically, the system would be able to avoid false positive, instances where a viewer falls asleep or leaves the television on while away when a program that does not represent their interest is airing.

Further in the same field of endeavor, Taniguchi teaches a video data transmitting method of sending in real-time video data being externally inputted, when encoding video data being inputted as stream data, start and stop of an encoding process is repeated at a predetermined time interval to carry out a data dividing process whereby a plurality of time-continuous video data are generated as partial video data. Also, metadata of partial video data (*equivalent to vote or rating value*) is generated, which is sent, together with the partial video data, in real-time as partial video metadata (see Abstract, Figure 2, leading end and terminal end as in-and-out points). The partial video data includes a leading end and terminal end and within the leading end and terminal, there exists a plurality of leading and terminal ends corresponding to the metadata for that particular segment of video data (Figure 2). In light of the teaching of

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Taniguchi, it would have been obvious to one of ordinary skill in the art to separate the content of Franken et al. into partial video data as described in Taniguchi, because an artisan of ordinary skill in the art would recognize that this would facilitate a long-time storage of the video data and a search process through large-capacity video data (see Taniguchi, [0008]).

As to claim **2**, Franken et al., as modified by Zilliacus and Taniguchi, teaches the method according to claim 1 further comprising storing the profile information associated with the at least one string of content within a storage device (see Franken et al., Col. 3, Lines 51-55; *{It is inherent that the personal computer or other processor stores the program names and the ranking.}*).

As to claim **3**, Franken et al., as modified by Zilliacus and Taniguchi, teaches the method according to claim 1 further comprising capturing the at least one string of content with a content capturing device (*The television shows are captured by a video camera or the like.*).

As to claims **4-6**, Although Franken et al. does not state it explicitly, **Official Notice** is taken that capturing content, particularly television programs, using a digital video camera that also records the audio associated with the video is a well known concept in the art. One of ordinary skill in the art would recognize the numerous advantages of capturing content with digital video cameras.

As to claim **8**, Franken et al., as modified by Zilliacus and Taniguchi, teaches the method according to claim 1 wherein receiving the at least one string of content occurs in real time relative to capturing the content (see Franken et al., Col. 2, Lines 42-48, "...**live** video programming...").

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As to claim **9**, Franken et al., as modified by Zilliacus and Taniguchi, teaches the method according to claim 1 wherein the at least one string of content is video footage (see Franken et al., Col. 2, Lines 42-48, "...**live** video programming...").

As to claim **10**, Franken, as modified by Zilliacus and Taniguchi, teaches the method according to claim 1 wherein the at least one string of content is a digital image (*See Official Notice statement for claims 4-6*).

As to claim **11**, Franken et al., as modified by Zilliacus and Taniguchi, teaches the method according to claim 1 wherein the at least one string of content is audio data (*See Official Notice statement for claims 4-6*).

As to claim **12**, Franken et al., as modified by Zilliacus and Taniguchi, teaches the method according to claim 1 wherein a rating value is determined for each segment of the plurality of segments of the least one string of content based on the vote (see Franken et al., Col. 3, Lines 47-50).

As to claim **13**, Franken et al., as modified by Zilliacus and Taniguchi, teaches the method according to claim 12 further comprising comparing the rating value with a predetermined value rating threshold (see Franken et al., Col. 4, Lines 21-30).

As to claim **14**, Franken et al., as modified by Zilliacus and Taniguchi, teaches the method according to claim 13 further comprising selectively displaying a segment of the plurality of segments of the at least one string of content based on comparing the rating value (see Franken et al., Col. 4, Lines 21-30).

As to claim **15**, Franken et al. teaches a system for displaying (Figure 1, TV "102") and rating content (Col. 3, Lines 47-50, "...these programs are ranked...") comprising: means for



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receiving at least one string of content having a plurality of segments (Col. 2, Lines 43-46), the at least one string of content streaming in real-time for viewing while being captured (Col. 2, Lines 43-46, "...provides live digital television service..."); means for creating profile information, in a record, associated with each segment of the content (Col. 3, Lines 5-7); means for showing the at least one string of content on a display device (Col. 3, Lines 39-42); and means for updating the profile information associated with each segment of the content to reflect the viewer information (Col. 3, Lines 44-47). The claim differs from Franken et al. in that it further requires a separating means for separating the at least one string of content into a plurality of segments corresponding the in-and-out points, wherein each segment has a plurality of original in-and-out points and wherein the record identifies a plurality of new in-and-out points within the plurality of original in-and-out points, thereby providing a plurality of in-and-out points within each segment. The claim also differs from Franken et al. in that it further requires means for receiving a vote that reflects the quality of the content, thereby providing a rating value having a quantifiable significance to the in-and-out points and that the profile information is updated according to the vote.

In the same field of endeavor, Zilliacus teaches a video system wherein a plurality of users watching a television program can vote as to the quality of the programs. Voting results are then tabulated by the system (Figure 2; [0033] – [0036]). In light of the teaching of Zilliacus, it would have been obvious to one of ordinary skill in the art to employ the voting system in the system of Franken et al., because an artisan of ordinary skill in the art would recognize that this would provide a higher quality assessment of viewership. More specifically, the system would be

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able to avoid false positive, instances where a viewer falls asleep or leaves the television on while away when a program that does not represent their interest is airing.

Further in the same field of endeavor, Taniguchi teaches a video data transmitting method of sending in real-time video data being externally inputted, when encoding video data being inputted as stream data, start and stop of an encoding process is repeated at a predetermined time interval to carry out a data dividing process whereby a plurality of time-continuous video data are generated as partial video data. Also, metadata of partial video data (*equivalent to vote or rating value*) is generated, which is sent, together with the partial video data, in real-time as partial video metadata (see Abstract, Figure 2, leading end and terminal end as in-and-out points). The partial video data includes a leading end and terminal end and within the leading end and terminal, there exists a plurality of leading and terminal ends corresponding to the metadata for that particular segment of video data (Figure 2). In light of the teaching of Taniguchi, it would have been obvious to one of ordinary skill in the art to separate the content of Franken et al. into partial video data as described in Taniguchi, because an artisan of ordinary skill in the art would recognize that this would facilitate a long-time storage of the video data and a search process through large-capacity video data (see Taniguchi, [0008]).

2. Claims 7,16,17 and 20-26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franken et al. (US # 7,028,323) in view of Zilliacus (US 2004/0005900) in view of Taniguchi (US 2003/0093810) and further in view of Peliotis et al. (US 2002/0065678).

As to claim 7, Franken et al., as modified by Zilliacus and Taniguchi, teaches the method according to claim 1. The claim differs from Franken et al., as modified by Zilliacus and

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Taniguchi, in that it further requires the step of identifying the content from multiple pieces of content.

In the same field of endeavor, Peliotis teaches method of selecting and excluding video segments in a video stream to be viewed by a viewer comprising: placing markers in the video stream that indicate the position of a division between the video segments of the video stream; placing tags in the video stream that indicate content of each video stream; using video preference information of the viewer to select and exclude video segments by comparing the tags with the video preference information of the viewer; inserting alternate video segments that replace video segments that have been excluded by the viewer ([0008]). The markers are therefore used to identify a separate piece of video segment or content within the video stream or multiple pieces of content, and the tags are used to describe the individual contents.

In light of the teaching of Peliotis et al., it would have been obvious to one of ordinary skill in the art to include the content identification step in the system of Franken et al., as modified by Zilliacus and Taniguchi, because an artisan of ordinary skill in the art would recognize that this would allow the viewer the ability to select video segments based on content ([0006]) so that they would not have to view content that is not desired to be viewed, but rather focus on content that the viewer desires ([0005]).

As to claim **16**, Franken et al. teaches a method of displaying (Figure 1, TV “102”) and rating at least one string of content (Col. 3, Lines 47-50, “...these programs are ranked...”), comprising the steps of: receiving the at least one string of content (Col. 2, Lines 43-46), the at least one stream of content streaming in real-time for viewing while being captured (Col. 2, Lines 43-46, “...provides live digital television service...”); creating profile information

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associated with each segment of the at least one string of content (Col. 3, Lines 5-7); showing the at least one string of content to a plurality of viewers (Col. 3, Lines 42-44); receiving viewer information on each segment of the at least one string of content from each of the plurality of viewers (Col. 3, Lines 43-47, "...viewership information..."); determining a rating value for the content based on viewer information (Col. 3, Lines 47-50, "...ranking..."); and displaying the content to the plurality of viewers based on the rating value of the content (Col. 4, Lines 21-26; *{See arguments above.}*). The claim differs from Franken et al. in that it further requires the steps of identifying the at least one string of content (1), receiving a vote reflecting the quality of the content from a plurality of viewers, thereby providing a rating value having a quantifiable significance to the in-and-out points (2), and separating each at least one string of content into a plurality of in-and-out points corresponding to each segment (3), wherein each segment has a plurality of original in-and-out points (4) and wherein the record identifies a plurality of new in-and-out points within the plurality of original in-and-out points, thereby providing a plurality of in-and-out points within each segment (5).

(1) In the same field of endeavor, Peliotis teaches method of selecting and excluding video segments in a video stream to be viewed by a viewer comprising: placing markers in the video stream that indicate the position of a division between the video segments of the video stream; placing tags in the video stream that indicate content of each video stream; using video preference information of the viewer to select and exclude video segments by comparing the tags with the video preference information of the viewer; inserting alternate video segments that replace video segments that have been excluded by the viewer ([0008]). The markers are

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therefore used to identify a separate piece of video segment or content within the video stream or multiple pieces of content, and the tags are used to describe the individual contents.

In light of the teaching of Peliotis et al., it would have been obvious to one of ordinary skill in the art to include the content identification step in the system of Franken et al., as modified by Zilliacus, because an artisan of ordinary skill in the art would recognize that this would allow the viewer the ability to select video segments based on content ([0006]) so that they would not have to view content that is not desired to be viewed, but rather focus on content that the viewer desires ([0005]).

(2) In the same field of endeavor, Zilliacus teaches a video system wherein a plurality of users watching a television program can vote as to the quality of the programs. Voting results are then tabulated by the system (Figure 2; [0033] – [0036]). In light of the teaching of Zilliacus, it would have been obvious to one of ordinary skill in the art to employ the voting system in the system of Franken et al., because an artisan of ordinary skill in the art would recognize that this would provide a higher quality assessment of viewership. More specifically, the system would be able to avoid false positive, instances where a viewer falls asleep or leaves the television on while away when a program that does not represent their interest is airing.

(3) Further in the same field of endeavor, Taniguchi teaches a video data transmitting method of sending in real-time video data being externally inputted, when encoding video data being inputted as stream data, start and stop of an encoding process is repeated at a predetermined time interval to carry out a data dividing process whereby a plurality of time-continuous video data are generated as partial video data. Also, metadata of partial video data (*equivalent to vote or rating value*) is generated, which is sent, together with the partial video

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data, in real-time as partial video metadata (see Abstract, Figure 2, leading end and terminal end as in-and-out points). The partial video data includes a leading end and terminal end (4) and within the leading end and terminal, there exists a plurality of leading and terminal ends corresponding to the metadata for that particular segment of video data (5) (Figure 2). In light of the teaching of Taniguchi, it would have been obvious to one of ordinary skill in the art to separate the content of Franken et al. into partial video data as described in Taniguchi, because an artisan of ordinary skill in the art would recognize that this would facilitate a long-time storage of the video data and a search process through large-capacity video data (see Taniguchi, [0008]).

As to claim **17**, Franken et al., as modified by Zilliacus, Taniguchi and Peliotis et al., teaches the method according to claim 16 further comprising updating the profile information associated with each segment of the at least one string of content to reflect the rating value (see Franken et al., Col. 3, Lines 44-47; *{The ranking is part of the profile information.}*).

As to claim **20**, Franken et al., as modified by Zilliacus and Peliotis et al., teaches the method according to claim 16 further comprising storing the profile information (see Franken et al., Col. 3, Lines 51-55; *{It is inherent that the personal computer or other processor stores the program names and the ranking.}*).

As to claim **21**, the limitations of claim 21 can be found in claim 16 in method form. Therefore, the cited passages and analysis of Franken et al., Zilliacus, Taniguchi and Peliotis et al. are applicable to rejection of claim 21.

As to claim **22**, Franken et al., as modified by Zilliacus and Peliotis et al., teaches the system according to claim 21 wherein the at least one string of content includes one of a video footage (see Franken et al., Col. 2, Lines 42-46), digital image, and audio data.

As to claim **23**, Franken et al., as modified by Zilliacus and Peliotis et al., teaches the system according to claim 21 further comprising a rendering module for formatting each segment of the at least one string of content to be displayed to the viewer (see Franken et al., Figure 1, video recorder “116”; Col. 5, Lines 36-40, “...compressed...”).

As to claim **24**, Franken et al., as modified by Zilliacus and Peliotis et al., teaches the system according to claim 21 further comprising a rendering module for selectively formatting each segment of the at least one string of content for display to the viewer based on the rating value associated with each segment of the at least one string of content (see Franken et al., Col. 5, Lines 36-40, “...compressed...”).

As to claim **25**, Franken et al., as modified by Zilliacus, Taniguchi and Peliotis et al., teaches a computer-readable medium having computer executable instructions (see Franken et al., Figure 1) for performing a method comprising: identifying at least one string of content, the at least one string of content identifying step comprising streaming the at least one string of content in real-time for viewing while being captured; separating the at least one string of content into a plurality of segments having a corresponding plurality of in-and-out points; creating profile information associated with each segment of the plurality of segments of the at least one string of content; showing the at least one string of content to a plurality of viewers; receiving a vote on each segment of the plurality of segments of the at least one string of content from each of the plurality of viewers, wherein the vote reflects the quality of each segment of the

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plurality of segments of the at least one string of content, thereby providing a rating value for establishing a quantifiable significance corresponding to the plurality of in-and-out points; determining a rating value for each segment of the plurality of segments of the at least one string of content based on the vote for establishing a plurality of in and out points; and displaying each segment of the plurality of segments of the at least one string of content to the plurality of viewers based on the rating value of each segment of the plurality of segments of the at least one string of content. *See claim 16 above.*

As to claim **26**, Franken et al., as modified by Zilliacus, Taniguchi and Peliotis et al., teaches the method according to Claim 1, further comprising the steps of: storing the profile information associated with the at least one string of content within a storage device(see claim 20 above); capturing the at least one string of content with a content capturing device (see claim 3 above); identifying the at least one string of content from the plurality of segments (see claim 16 above); comparing the rating value with a predetermined value rating threshold (see claims 13 and 14 above); and selectively displaying a segment of the plurality of segments of the at least one string of content based on comparing the rating value (see claim 25 above), wherein the content capturing device comprises an element selected from a group consisting of a video camera, a digital camera, and an audio recorder (see claims 4-6 above), wherein receiving the at least one string of content occurs in real time relative to capturing the at least one string of content (see claim 21 above), wherein the at least one string of content comprises an element selected from a group consisting of video footage (see claim 22 above), a digital image, audio data, and wherein a rating value is determined for each segment of the plurality of segments of the at least one string of content based on the vote (see claim 21 above).



As to claim **28**, Franken et al., as modified by Zilliacus, Taniguchi and Peliotis et al., teaches the system according to Claim 21, further comprising: a rendering module for formatting each segment of the plurality of segments of the at least one string of content to be displayed to the viewer; and a rendering module for selectively formatting each segment of the plurality of segments of the at least one string of content for display to the viewer based on the rating value associated with each segment of the plurality of segments of the at least one string of content (see claims 23 and 24 above), wherein the at least one string of content comprises an element selected from a group consisting of a video footage (see claim 22 above), digital image, and audio data.

3. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Franken et al. (US # 7,028,323) in view of Zilliacus (US 2004/0005900) in view of Taniguchi (US 2003/0093810) in view of Peliotis et al. (US 2002/0065678) and further in view of Lautzenheiser et al. (US # 7,054,827).

As to claim **18**, Franken et al., as modified by Zilliacus, Taniguchi and Peliotis et al., teaches the method according to claim 16. The claim differs from Franken et al., as modified by Zilliacus, Taniguchi and Peliotis et al., in that it further requires the step of checking for a number of viewers submitting the vote.

In the same field of endeavor, Lautzenheiser teaches a method and apparatus for validating a survey database and identifying portions of the survey database that are potentially problematic with the idea of checking the number of responses for selected answers in the survey database to ensure that corresponding user requests are based on a statistically significant sample

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size, or the user is notified otherwise (Col. 32, Lines 7-11; *{The number of responses for selected answers is the same as the number of viewers submitting the vote.}*). In light of the teaching of Lautzenheiser, it would have been obvious to one of ordinary skill in the art to include survey database validation scheme in the system of Franken et al., as modified by Zilliacus, Taniguchi and Peliotis et al., because an artisan of ordinary skill in the art would recognize that this would prevent the results from being misleading when results may be based on a statistically insignificant sample size, thereby misleading the user (Col. 2, Lines 17-20).

### ***Conclusion***

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY J. DANIELS whose telephone number is (571)272-7362. The examiner can normally be reached on 8:00 A.M. - 5:30 P.M..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sinh Tran/  
Supervisory Patent Examiner, Art Unit  
2622

AD  
4/24/2010